

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ROBERT WALLACE REEVES, and
ELISEABTH SPHUA SHALTEN REEVES,

Plaintiffs,

v.

No. 1:22-cv-00425-DHU-KRS

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on *pro se* Plaintiff's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, Doc. 1, filed June 3, 2022 ("Complaint"), and Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed June 3, 2022.

Application to Proceed *in forma pauperis*

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

Menefee v. Werholtz, 368 Fed.Appx. 879, 884 (10th Cir. 2010) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962). "The statute [allowing a litigant to proceed *in forma pauperis*] was intended for the benefit of those too poor to pay or give security for costs...." *Adkins v. E.I.*

DuPont de Nemours & Co., 335 U.S. 331, 344 (1948). While a litigant need not be “absolutely destitute,” “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.” *Id.* at 339.

While much of Plaintiff's Application is blank, incoherent or illegible, the Court grants Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs because Plaintiff signed an affidavit stating he is unable to pay the costs of these proceedings.

The Complaint

Plaintiff filed his Complaint using the form "Civil Rights Complaint Pursuant to 42 U.S.C. § 1983." The Complaint lists two Plaintiffs, Robert Reeves and his daughter Eliseabth Sphua Shalten Reeves. The Complaint is not signed by Plaintiff Eliseabth Reeves. *See* Complaint at 5; *see also* Fed. R. Civ. P. 11(a) (every paper must be signed by a party personally if the party is unrepresented). Plaintiff Robert Reeves is not an attorney authorized to practice in this Court and cannot represent Plaintiff Eliseabth Reeves. *See Fymbo v. State Farm Fire & Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000) ("A litigant may bring his own claims to federal court without counsel, but not the claims of others").

The Complaint alleges:

I have been a due dipломate shice 1998. I would live if if Amecia would give a shit about my back pay and compilemet, comfilemet distny holly war agest Wallace E. Reeves and Joe Biden, James Garson Reeves, John Michele Ozborne, and Joe Bidon. It been gong on for quit sometime. they keep trying to sacerfice my daughter which is a due diplament by Daughter. I understand that Amecia hates it [illegible] because of Joe and Wally.

[sic] Complaint at 2-3. Much of the Complaint is incoherent. For example, where the form "Civil Rights Complaint Pursuant to 42 U.S.C. § 1983" prompts Plaintiff to allege which of his constitutional rights have been violated and the facts that form the basis for his allegations,

Plaintiff wrote: "place them a consauludation or I will pitch a fit." [sic] Complaint at 3. Where the form Complaint instructs Plaintiff to describe the facts supporting Counts II and III, Plaintiff wrote: "my daughter." Complaint at 3-4. Where the form Complaint instructs Plaintiff to list the parties to a previous lawsuit, Plaintiff wrote "It's been going on for 28 yr for me and 4 yr for her." Complaint at 4. Where the form Complaint prompts Plaintiff to describe the relief he believes he is entitled to, Plaintiff wrote: "Consalve[illegible] death chambers for them." Complaint at 5.

Proceedings *In Forma Pauperis*

Plaintiff is proceeding *in forma pauperis*. The statute governing proceedings *in forma pauperis* states "the court shall dismiss the case at any time if the court determines that ... the action ... fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2); *see also Webb v. Caldwell*, 640 Fed.Appx. 800, 802 (10th Cir. 2016) ("We have held that a pro se complaint filed under a grant of *ifp* can be dismissed under § 1915(e)(2)(B)(ii) for failure to state a claim ... only where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend").

The Court dismisses this case for failure to state a claim because Plaintiff cannot prevail on the facts alleged in the Complaint. Plaintiff's incoherent allegations and his failure to comply with simple instructions on the form Complaint indicate that it would be futile to give him an opportunity to amend.

IT IS ORDERED that:

- (i) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed June 3, 2022, is **GRANTED**.
- (ii) This case is **DISMISSED without prejudice**.



D. H. Van
UNITED STATES DISTRICT JUDGE